

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert W. Fleming, Appellant, v. City of Davenport Board of Review, Appellee.	ORDER Docket No. 13-103-1179 Parcel No. Y0553-03
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On January 23, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Robert W. Fleming was represented by attorney R. Douglas Wells of Gomez May, LLP, Davenport, Iowa. City Attorney Tom Warner represented the Board of Review. This appeal was a written consideration by agreement of the parties. The Appeal Board now, having examined the entire record, and being fully advised, finds:

Findings of Fact

Robert W. Fleming is the owner of property located at 3740 E 61st Boulevard, Davenport, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$347,080, representing \$61,800 in land value and \$285,280 in dwelling value.

Fleming protested the assessment to the City of Davenport Board of Review on the grounds the assessment was not equitable as compared with the assessments of other like property and that the property was assessed for more than authorized by law under under Iowa Code sections 441.37(1)(a)(1) and (2). Reviewing the petition, Fleming was essentially only stating a claim of over-assessment. The Board of Review denied the protest.

Fleming then appealed to PAAB reasserting his claim. Fleming asserted the property's correct value was \$335,000, representing \$60,000 in land value and \$275,000 in improvement value.

According to the property record card, the subject property is a two-story, frame dwelling built in 1998. The improvement has 3145 square feet of living area; a full basement with 600 square feet of finish; a 192-square-foot deck; a 44-square-foot open porch; a 648-square-foot, attached, three-car garage; an in-ground swimming pool; and a shed. The property is listed in normal condition with a high quality grade (2-10). The dwelling sits on a 0.449-acre site.

Fleming submitted an appraisal completed by Stephen Evans of DataSource Appraisal, Bettendorf, with an effective date of February 18, 2013. Evans completed the sales comparison approach to value the subject property and concluded a fee simple market value of \$335,000 for the subject property.

Evans used three arm's-length sales of dwellings in Davenport in his analysis. The sales occurred between February 2012 and October 2012 and ranged from \$325,000 to \$362,500. Evans stated he searched for comparable sales in the subject's Lakehurst neighborhood, with gross living area plus-or-minus 20% of the subject's and that sold within the past year. The properties range in size from 3067 square feet to 3215 square feet, and are roughly of similar age, quality, and condition as Fleming's dwelling. Sale #1 is across the street from the subject and is most similar with respect to location and size. He reports Sales #2 and #3 are also in the Lakehurst neighborhood and have many similarities to the subject. Evans adjusted the sales prices for gross living area, room count, basement finish, and amenities. Although Evans did not explain how he arrived at his adjustments, we find few adjustments were required, with gross adjustments ranging from 3.3% to 5.7%. Adjusted sales prices ranged from \$333,230 to \$370,490.

The Assessor's Office provided information on two sales of two-story dwellings with 2884 and 3291 total square feet of living area. Both of the properties sold in mid-2011. Sale prices were

\$343,000 and \$355,000. The sale prices were adjusted for differences for living area, basement finish, age, grade, age, site, and amenities and range from \$336,947 to 364,683. The adjustments appear to be cost based and we are not convinced they are market-oriented. For example, the subject has a 44-square-foot open porch compared to a 69-square-foot open porch on Comparable #1. An adjustment of \$1390 was made for this 25-square-foot difference. Comparable #2 has a 40-square-foot porch and was adjusted \$560. We are skeptical the market would recognize these minor differences in this amenity. We see similar examples throughout this analysis. Further, while the reported net adjustments are low, the gross adjustments to these two properties are roughly 23% to 25%. The larger adjustments for these properties may mean they are less comparable to the subject than those used in the appraisal.

We note the sale properties used by the Assessor's Office all have swimming pools similar to the subject property, and we assume this is the reason for using older sales. However, we question whether the market would recognize the \$12,720 value attributed to this feature. While Evans' comparable sale properties did not have swimming pools, his \$2500 adjustment appears more reasonable for this amenity. We find the sales properties he selected are more comparable to the subject and thus they required few adjustments. Additionally, Evans used sales that are more recent in Fleming's Lakehurst neighborhood. For these reasons, we give more weight to Evans' appraisal than the Assessor's analysis.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds

presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

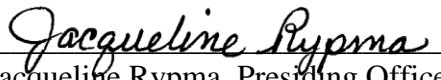
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property, or a "fair and reasonable exchange . . . between a willing buyer and a willing seller." *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

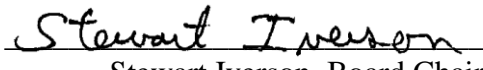
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

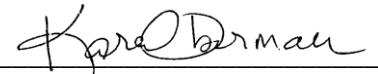
We find the best evidence of the subject property's fair market value as of January 1, 2013, is Evans' appraisal, which valued the property at \$335,000. For the foregoing reason, we determine Fleming has met his burden of demonstrating the subject property is over-assessed.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of the Board of Review is modified to a total value of \$335,000. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Scott County Auditor and all tax records, assessment books, and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 27th day of February, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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